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BY U.S. CERTIFIED MAIL

November 4, 2015

Citizen Suit Coordinator
Environment and Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415

Attorney General
U.S. Department of Justice
Citizen Suit Coordinator
Room 2615
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: *California Communities Against Toxics v. Armorcast Products Company, Inc., et al*;
Case No. 2:14-cv-05728-PA-FFM – Settlement Agreement; 45-day review

Dear Citizen Suit Coordinators,

On November 4, 2015, the parties in the above-captioned case entered into a settlement agreement setting forth mutually agreeable settlement terms to resolve the matter in its entirety. Pursuant to the terms of the settlement agreement and 40 C.F.R. § 135.5, the enclosed settlement agreement is being submitted to the United States Environmental Protection Agency and the U.S. Department of Justice for a 45-day review period. If you have any questions regarding the settlement agreement, please feel free to contact me or counsel for Defendants listed below. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug J. Chermak", is written over a light blue rectangular background.

Douglas J. Chermak
Attorney for Plaintiff California Sportfishing Protection Alliance

cc via First Class Mail: Jared Blumenfeld, Regional Administrator, EPA Region 9

cc via e-mail: Jamie Norman, Counsel for Defendants, norman@litchfieldcavo.com

Encl.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS

This Settlement Agreement and Mutual Release of Claims (“AGREEMENT”) is entered into between the California Communities Against Toxics (“CCAT”) and Armorcast Products Company, Inc. (“Armorcast”) and Ari Aleong (all parties collectively are referred to as the “SETTLING PARTIES”) with respect to the following facts and objectives:

RECITALS

WHEREAS, CCAT is an unincorporated, non-profit association dedicated to working with communities to advocate for environmental justice and pollution prevention. Jane Williams is the Executive Director of CCAT;

WHEREAS, Armorcast owns and operates an industrial facility located at 13230 Satcoy Street in North Hollywood, California (the “Facility”). Through June 30, 2015, the Facility has operated pursuant to State Water Resources Control Board Water Quality Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities. Since July 1, 2015, the Facility has operated pursuant to State Water Resources Control Board Water Quality Order No. 2014-0057-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001 (hereinafter “General Permit”). A map of the Facility is attached hereto as Exhibit A and incorporated by reference;

WHEREAS, Ari Aleong is an individual under the employ of Armorcast;

WHEREAS, on or about May 21, 2014, CCAT provided Armorcast and Mr. Aleong with a Notice of Violation and Intent to File Suit (“60-Day Notice Letter”) under Section 505 of the Federal Water Pollution Control Act (the “Act” or “Clean Water Act”), 33 U.S.C. § 1365;

WHEREAS, on July 23, 2014, CCAT filed its Complaint in the United States District Court for the Central District of California (*California Communities Against Toxics v. Armorcast Products Company, Inc.*, Case No. 2:14-cv-05728-PA-FFM). On September 15, 2014, CCAT filed a first amended complaint against Armorcast and Ari Aleong. On December 22, 2014, CCAT filed a second amended complaint against Defendants (hereinafter “SAC”). A true and

correct copy of the SAC, including the 60-Day Notice Letter, is attached hereto as Exhibit B and incorporated by reference;

WHEREAS, Armorcast and Ari Aleong denies any and all of CCAT's claims in its 60-Day Notice Letter and Complaint;

WHEREAS, CCAT, Armorcast and Mr. Aleong, through their authorized representatives and without either adjudication of CCAT's claims or admission by Armorcast or Ari Aleong of any alleged violation or other wrongdoing, have chosen to resolve in full CCAT's allegations in the 60-Day Notice Letter and Complaint through settlement and avoid the cost and uncertainties of further litigation; and

WHEREAS, CCAT, Armorcast and Ari Aleong have agreed that it is in their mutual interest to enter into this AGREEMENT setting forth the terms and conditions appropriate to resolving CCAT's allegations set forth in the 60-Day Notice Letter and Complaint.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CCAT, Armorcast and Ari Aleong hereby agree as follows:

EFFECTIVE DATE

1. The term "Effective Date," as used in this AGREEMENT, shall mean the last date on which the signature of a party to this AGREEMENT is executed.

COMMITMENTS OF CCAT

2. Stipulation to Dismiss and [Proposed] Order. Within thirty (30) calendar days of the Agency Approval Date, as defined in Paragraph 3 below, or within fifteen (15) calendar days of CCAT's confirmations of payments set forth in Paragraphs 7 and 8, whichever is the later date, CCAT shall file a Stipulation to Dismiss and [Proposed] Order thereon pursuant to Federal Rule of Civil Procedure 41(a)(2) with the United States District Court for the Central District of California ("District Court"), with this AGREEMENT attached and incorporated by reference, specifying that CCAT is dismissing with prejudice all claims in CCAT's Complaint. Upon

execution of this Agreement, the Parties agree to work together to stay the litigation pending the Court's final entry of the Order.

3. Review by Federal Agencies. CCAT shall submit this AGREEMENT to the U.S. EPA and the U.S. Department of Justice (hereinafter, the "Agencies") via certified mail, return receipt requested, within five (5) days after the Effective Date of this AGREEMENT for review consistent with 40 C.F.R. § 135.5. The Agencies' review period expires forty-five (45) days after receipt of the AGREEMENT by both Agencies, as evidenced by the return receipts and the confirming correspondence of DOJ. In the event that the Agencies comment negatively on the provisions of this AGREEMENT, CCAT and Armorcast agree to meet and confer to attempt to resolve the issue(s) raised by the Agencies. If CCAT and Armorcast are unable to resolve any issue(s) raised by the Agencies in their comments, CCAT and Armorcast agree to expeditiously seek a settlement conference with the Magistrate Judge assigned to this matter to resolve the issue(s). If the SETTLING PARTIES cannot resolve the issue(s) raised by the Agencies through a settlement conference, this AGREEMENT shall be null and void. The date of (a) the Agencies' unconditioned approval of this AGREEMENT or (b) the expiration of the Agencies' review period, whichever is earliest, shall be defined as the "Agency Approval Date." However, to the extent the PARTIES must meet and confer over any objection by the Agencies, the "Agency Approval Date" shall be the date of the SETTLING PARTIES' resolution of all issues raised by the Agencies.

COMMITMENTS OF ARMORCAST

4. Compliance with General Permit. Armorcast agrees to operate the Facility in compliance with the applicable requirements of the General Permit and the Clean Water Act.

5. Implemented Storm Water Controls. Armorcast shall maintain in good working order all storm water management measures at the Facility currently installed or to be installed pursuant to this AGREEMENT, including but not limited to, existing housekeeping measures.

6. Structural Improvement to Storm Water Management Systems. Armorcast will implement the following improvements to the Facility's storm water management systems:

a. To prevent the possibility of off-site storm water flows commingling with storm water flows from the Facility that are associated with industrial activity, by February 1, 2016, Armorcast shall fill in the entire existing storm water culvert that runs along the southern portion of the Facility.

b. By March 1, 2016, Armorcast shall install a comprehensive filtration and clarification system to treat all storm water that is discharged from the Facility. The system shall be the 1000 Gallon-Per-Minute Hydrodynamic Separator/Clarifier – 200 Micron System, manufactured by H2O Storm Water Systems.

i. Within ten (10) days of installation, Armorcast shall e-mail digital photographs to CCAT confirming the installation of the filtration and clarification system.

ii. Provided installation is complete and, the filtration and clarification system is being properly operated and maintained pursuant to the requirements of H2O Storm Water Systems, CCAT stipulates that the system represents BAT/BCT for the Facility (as those terms are defined in the General Permit and the Clean Water Act).

7. Mitigation Payment. In lieu of payment by Armorcast and Ari Aleong of any civil penalties which may have been assessed in this action if it had been adjudicated adverse to Armorcast and Ari Aleong, the SETTLING PARTIES agree that Armorcast will pay the sum of fifty thousand dollars (\$50,000) to As You Sow for the sole purpose of providing grants to environmentally beneficial projects relating to water quality improvements in the Los Angeles River watershed. Payment shall be provided to As You Sow as follows: As You Sow, 1611 Telegraph Avenue, Suite 1450, Oakland, CA 94612, Attn: Andrew Behar. Payment shall be made by Armorcast to As You Sow within ten (10) calendar days of the Agency Approval Date described in Paragraph 3 of this AGREEMENT. Armorcast shall copy CCAT with any correspondence and a copy of the check sent to As You Sow. As You Sow shall provide notice to the SETTLING PARTIES within thirty (30) days of when the funds are dispersed by As You Sow, setting forth the recipient and purpose of the funds.

8. Fees, Costs, and Expenses. As reimbursement for CCAT's investigative, expert and attorneys' fees and costs, Armorcast shall pay CCAT the sum of three hundred eighty-five thousand dollars (\$385,000.00). Payment shall be made by Armorcast within ten (10) calendar days of the Agency Approval Date described in Paragraph 3 of this AGREEMENT. Payment by Armorcast to CCAT shall be made in the form of a single check payable to "Lozeau Drury LLP," and shall constitute full payment for all costs of litigation, including investigative, expert and attorneys' fees and costs incurred by CCAT that have or could have been claimed in connection with CCAT's claims, up to and including the District Court's entry of the Order dismissing the action described in Paragraph 2 of this AGREEMENT.

NO ADMISSION OR FINDING

9. Neither this AGREEMENT nor any payment pursuant to the AGREEMENT nor compliance with this AGREEMENT shall constitute evidence or be construed as a finding, adjudication, or acknowledgment of any fact, law or liability, nor shall it be construed as an admission of violation of any law, rule or regulation. However, this AGREEMENT and/or any payment pursuant to the AGREEMENT may constitute evidence in actions seeking compliance with this AGREEMENT.

MUTUAL RELEASE OF LIABILITY AND COVENANT NOT TO SUE

10. In consideration of the above, and except as otherwise provided by this AGREEMENT, the SETTLING PARTIES hereby forever and fully release each other and their respective parents, affiliates, subsidiaries, divisions, insurers, successors, assigns, and current and former employees, attorneys, officers, directors, members, shareholders, and agents from any and all claims and demands of any kind, nature, or description whatsoever, known and unknown, and from any and all liabilities, damages, injuries, actions or causes of action, either at law or in equity, at any Armorcast Facility, which it may presently have, or which may later accrue or be acquired by it, arising from or in any way related to the Complaint or Notice Letters, including, without limitation, all claims for injunctive relief, damages, penalties, fines, sanctions, mitigation, fees (including fees of attorneys, experts, and others), costs, expenses or any other sum incurred or claimed or which could have been claimed in the Complaint or Notice Letters,

for the alleged failure of Defendants to comply with the Clean Water Act, up to and including the Termination Date of this AGREEMENT, as defined in Paragraph 13.

11. The SETTLING PARTIES acknowledge that they are familiar with section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The SETTLING PARTIES hereby waive and relinquish any rights or benefits they may have under California Civil Code section 1542 with respect to any other claims against each other arising from, or related to, the Clean Water Act up to and including the Termination Date of this AGREEMENT. The SETTLING PARTIES expressly reserve the right to enforce any claims for a breach and/or violation of this AGREEMENT.

12. For the period beginning on the Effective Date and ending on the Termination Date, neither CCAT, its officers, executive staff, nor members of its Steering Committee will file or support other lawsuits, by providing financial assistance, personnel time or other affirmative actions, against or relating to the Facility that may be proposed by other groups or individuals who would rely upon the citizen suit provision of the Clean Water Act to challenge the Facility's compliance with the Clean Water Act, or the General Permit.

TERMINATION DATE OF AGREEMENT

13. Unless an extension is agreed to in writing by the SETTLING PARTIES, this AGREEMENT shall terminate on December 15, 2018 (the "Termination Date"), or, provided that an enforcement action under this Agreement is commenced before December 15, 2018, through the conclusion of any proceeding to enforce this AGREEMENT, whichever is the later occurrence.

DISPUTE RESOLUTION PROCEDURES

14. Except as specifically noted herein, any disputes with respect to any of the provisions of this AGREEMENT shall be resolved through the following procedure. The SETTLING PARTIES agree to first meet and confer in good faith to resolve any dispute arising under this AGREEMENT. The party that desires to invoke this dispute resolution must provide a notice by e-mail and first-class mail to the other party. In the event that such disputes cannot be resolved through this meet and confer process within 30 days of the notice described above, any of the SETTLING PARTIES can file a lawsuit to enforce this AGREEMENT. Armorcast and Ari Aleong acknowledge that service of a new 60-Day Notice of Intent to Sue Letter pursuant to 33 U.S.C. § 1365(b) is not necessary to commence a lawsuit for the sole purpose of enforcing this AGREEMENT.

15. In resolving any dispute arising from this AGREEMENT, the court shall have discretion to award attorneys' fees and costs to either party. The relevant provisions of the then-applicable Clean Water Act and Rule 11 of the Federal Rules of Civil Procedure shall govern the allocation of fees and costs in connection with the resolution of any disputes before the court hearing the enforcement action. The court shall award relief limited to compliance orders and awards of attorneys' fees and costs, subject to proof.

GENERAL PROVISIONS

16. Impossibility of Performance. Where implementation of the actions set forth in this AGREEMENT, within the deadlines set forth in those paragraphs, becomes impossible, despite the timely good faith efforts of the SETTLING PARTIES, the party who is unable to comply shall notify the other in writing within seven (7) days of the date that the failure becomes apparent, and shall describe the reason for the non-performance. The SETTLING PARTIES agree to meet and confer in good faith concerning the non-performance and, where the SETTLING PARTIES concur that the non-performance was or is impossible, despite the timely good faith efforts of one of the SETTLING PARTIES, new performance deadlines shall be established. In the event that the SETTLING PARTIES cannot timely agree upon the terms of such a stipulation, either of the SETTLING PARTIES shall have the right to invoke the dispute resolution procedure described herein.

17. Construction. The language in all parts of this AGREEMENT shall be construed according to its plain and ordinary meaning, except as to those terms defined by law, in the General Permit, and the Clean Water Act or specifically herein.

18. Choice of Law. This AGREEMENT shall be governed by the laws of the State of California, and where applicable, the laws of the United States.

19. Severability. In the event that any provision, section, or sentence of this AGREEMENT is held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

20. Correspondence. All notices required herein or any other correspondence pertaining to this AGREEMENT shall be sent by regular, certified, overnight mail, or e-mail as follows:

If to CCAT:	Jane Williams, Executive Director California Communities Against Toxics P.O. Box 845 Rosamond, CA 93560 (661) 510-3412 dcapjane@aol.com	Copy to:	Michael R. Lozeau Douglas J. Chermak Lozeau Drury LLP 410 12th Street, Suite 250 Oakland, CA 94607 (510) 836-4200 michael@lozeaudrury.com doug@lozeaudrury.com
If to Armorcast and Ari Aleong:	Paul Boghossian, President Armorcast Products Company, Inc. 13230 Saticoy Street North Hollywood, CA 91605 notice@armorcastprod.com (818) 982-3600	Copy to:	Edward D. Vaisbort Jamie O. Norman Litchfield Cavo LLP 251 S. Lake Ave., Ste. 750 Pasadena, CA 91101 (626) 683-1100 vaisbort@litchfieldcavo.com norman@litchfieldcavo.com

Notifications of communications shall be deemed submitted on the date that they are e-mailed, postmarked and sent by first-class mail or deposited with an overnight mail/delivery service.

Any change of address or addresses shall be communicated in the manner described above for giving notices.

21. Counterparts. This AGREEMENT may be executed in any number of counterparts, all of which together shall constitute one original document. Telecopied, scanned (.pdf), and/or facsimiled copies of original signature shall be deemed to be originally executed counterparts of this AGREEMENT.

22. Assignment. Subject only to the express restrictions contained in this AGREEMENT, all of the rights, duties and obligations contained in this AGREEMENT shall inure to the benefit of and be binding upon the SETTLING PARTIES, and their successors and assigns.

23. Modification of the Agreement. This AGREEMENT, and any provisions herein, may not be changed, waived, discharged or terminated unless by a written instrument, signed by the SETTLING PARTIES.

24. Full Settlement. This AGREEMENT constitutes a full and final settlement of this matter. It is expressly understood and agreed that the AGREEMENT has been freely and voluntarily entered into by the SETTLING PARTIES with and upon advice of counsel.

25. Integration Clause. This is an integrated AGREEMENT. This AGREEMENT is intended to be a full and complete statement of the terms of the agreement between the SETTLING PARTIES and expressly supersedes any and all prior oral or written agreements covenants, representations and warranties (express or implied) concerning the subject matter of this AGREEMENT.

26. Authority. The undersigned representatives for CCAT and Armorcast each certify that he/she is fully authorized by the party whom he/she represents to enter into the terms and conditions of this AGREEMENT.

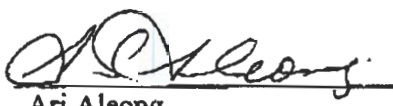
The SETTLING PARTIES hereby enter into this AGREEMENT.

**ARMORCAST PRODUCTS
COMPANY, INC.****CALIFORNIA COMMUNITIES
AGAINST TOXICS**

By: _____
Name: Paul Boghossian
Title: President
Date: _____

By: _____
Name: Jane Williams
Title: Executive Director
Date: _____

ARI ALEONG


By: 
Name: Ari Aleong
Date: 11/3/2015

APPROVED AS TO FORM:**For Defendants****LITCHFIELD CAVO LLP****For: Plaintiff****LOZEAU DRURY LLP**

By: _____
Name: Jamie O. Norman, Esq.
Date: _____

By: _____
Name: Douglas J. Chermak, Esq.
Date: _____

**ARMORCAST PRODUCTS
COMPANY, INC.**

By: 
Name: Paul Boghossian
Title: President
Date: 11/3/15

**CALIFORNIA COMMUNITIES
AGAINST TOXICS**

By: _____
Name: Jane Williams
Title: Executive Director
Date: _____


ARI ALEONG

By: _____
Name: Ari Aleong
Date: _____

APPROVED AS TO FORM:

For Defendants

LITCHFIELD CAVO LLP

By: 
Name: Jamie O. Norman, Esq.
Date: 11/4/2015

For: Plaintiff

LOZEAU DRURY LLP

By: _____
Name: Douglas J. Chermak, Esq.
Date: _____

**ARMORCAST PRODUCTS
COMPANY, INC.****CALIFORNIA COMMUNITIES
AGAINST TOXICS**

By: _____
Name: Paul Boghossian
Title: President
Date: _____

By: Jane Williams
Name: Jane Williams
Title: Executive Director
Date: 11-3-15

ARI ALEONG

By: _____
Name: Ari Aleong
Date: _____

APPROVED AS TO FORM:**For Defendants****For Plaintiff****LITCHFIELD CAVO LLP****LOZEAU DRURY LLP**

By: _____
Name: Jamie O. Norman, Esq.
Date: _____

By: D. J. Chermak
Name: Douglas J. Chermak, Esq.
Date: 11/3/15

EXHIBIT A

FIGURE-2 – Location of Storm Drains & Storwater Flow Patterns

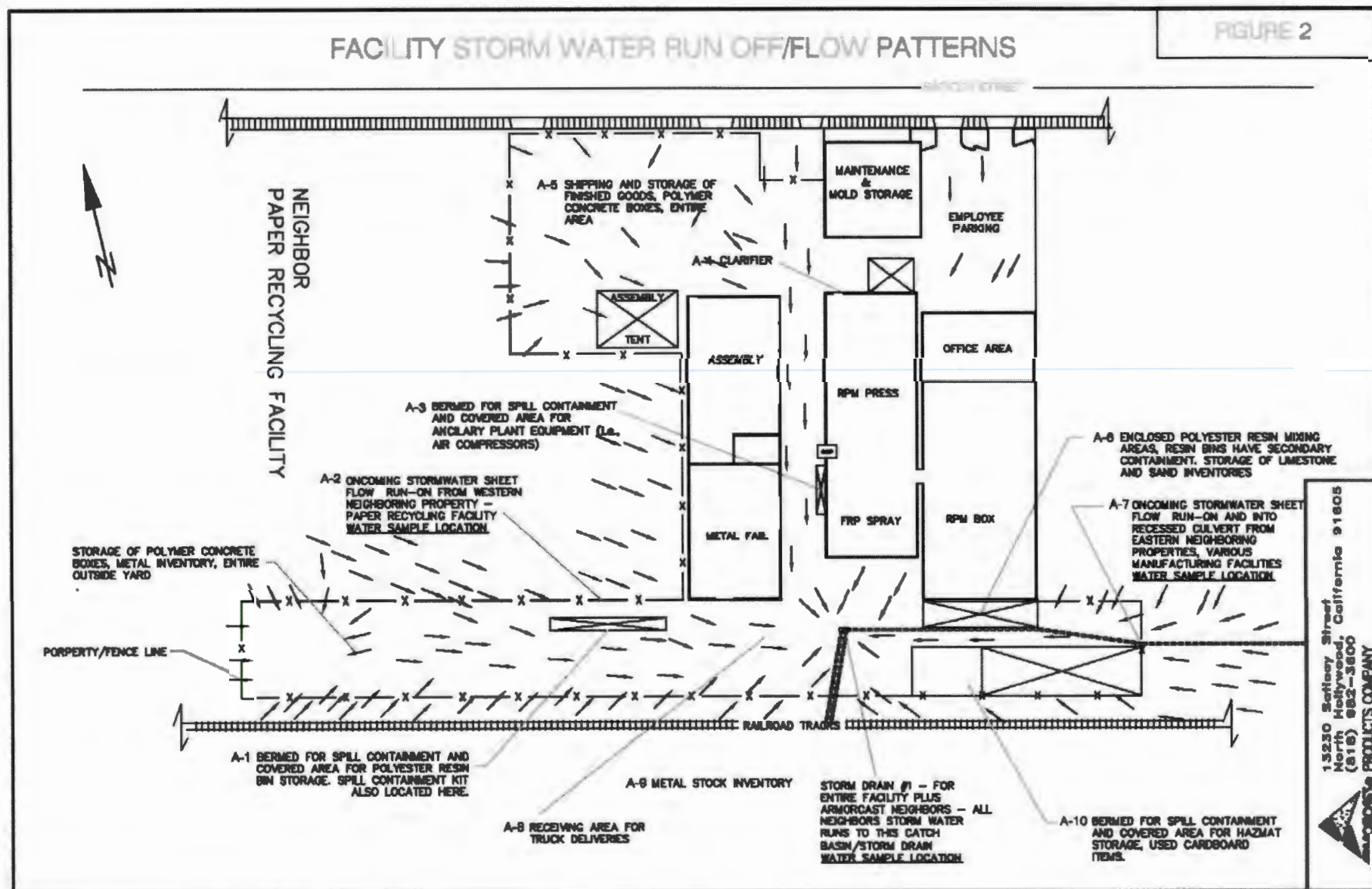


EXHIBIT B

1 Michael R. Lozeau (State Bar No. 142893)
2 Richard T. Drury (State Bar No. 163559)
3 Douglas J. Chermak (State Bar No. 233382)
4 LOZEAU DRURY LLP
5 410 12th Street, Suite 250
6 Oakland, CA 94607
7 Tel: (510) 836-4200
8 Fax: (510) 836-4205 (fax)
9 E-mail: michael@lozeaudrury.com
10 richard@lozeaudrury.com
11 doug@lozeaudrury.com

12 Gideon Kracov (State Bar No. 179815)
13 LAW OFFICE OF GIDEON KRACOV
14 801 S. Grand Avenue, 11th Floor
15 Los Angeles, CA 90017-4645
16 Tel: (213) 629-2071
17 Fax: (213) 623-7755
18 Email: gk@gideonlaw.net

19 Attorneys for Plaintiff
20 CALIFORNIA COMMUNITIES
21 AGAINST TOXICS

22 **UNITED STATES DISTRICT COURT**
23 **CENTRAL DISTRICT OF CALIFORNIA**

24 CALIFORNIA COMMUNITIES
25 AGAINST TOXICS, an
26 unincorporated non-profit association,

27 Plaintiff,

28 vs.

ARMORCAST PRODUCTS
COMPANY, INC., a corporation; ARI
ALEONG, an individual,

Defendants.

Case No. 2:14-cv-05728-PA-FFM

**SECOND AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF AND CIVIL
PENALTIES**

(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 to 1387)

CALIFORNIA COMMUNITIES AGAINST TOXICS ("CCAT"), a California
non-profit association, by and through its counsel, hereby alleges:

1 **I. JURISDICTION AND VENUE**

2 1. This is a civil suit brought under the citizen suit enforcement provisions
3 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* (the “Clean
4 Water Act” or “the Act”). This Court has subject matter jurisdiction over the parties
5 and the subject matter of this action pursuant to Section 505(a)(1)(A) of the Act, 33
6 U.S.C. § 1365(a)(1)(A), and 28 U.S.C. § 1331 (an action arising under the laws of the
7 United States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201-02
8 (power to issue declaratory relief in case of actual controversy and further necessary
9 relief based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief);
10 and 33 U.S.C. §§ 1319(d), 1365(a) (civil penalties).
11

12 2. On May 21, 2014, Plaintiff provided notice of Defendants’ violations of
13 the Act, and of its intention to file suit against Defendants, to the Administrator of the
14 United States Environmental Protection Agency (“EPA”); the Administrator of EPA
15 Region IX; the Executive Director of the State Water Resources Control Board (“State
16 Board”); the Executive Officer of the California Regional Water Quality Control
17 Board, Los Angeles Region (“Regional Board”); and to Defendants, as required by the
18 Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct copy of CCAT’s notice letter is
19 attached as Exhibit A, and is incorporated by reference.
20

21 3. More than sixty days have passed since notice was served on Defendants
22 and the State and federal agencies. Plaintiff is informed and believes, and thereupon
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1 alleges, that neither the EPA nor the State of California has commenced or is
2 diligently prosecuting a court action to redress the violations alleged in this complaint.
3 This action's claim for civil penalties is not barred by any prior administrative penalty
4 under Section 309(g) of the Act, 33 U.S.C. § 1319(g).
5

6 4. Venue is proper in the Central District of California pursuant to Section
7 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is
8 located within this judicial district.
9

10 **II. INTRODUCTION**

11
12 5. This complaint seeks relief for Defendants' discharges of polluted storm
13 water and non-storm water pollutants from Defendant ARMORCAST PRODUCTS
14 COMPANY, INC.'s ("Armorcast") industrial facility located at 13230 Saticoy Street
15 in North Hollywood, California ("the Facility") in violation of the Act and National
16 Pollutant Discharge Elimination System ("NPDES") Permit No. CAS000001, State
17 Water Resources Control Board Water Quality Order No. 91-13-DWQ, as amended
18 by Water Quality Order No. 92-12-DWQ and Water Quality Order No. 97-03-DWQ
19 (hereinafter the "Permit" or "General Permit"). Defendant's violations of the
20 discharge, treatment technology, monitoring requirements, and other procedural and
21 substantive requirements of the Permit and the Act are ongoing and continuous.
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1 **III. PARTIES**

2 6. Plaintiff CALIFORNIA COMMUNITIES AGAINST TOXICS

3 ("CCAT") is an unincorporated non-profit association under the laws of the State of
4 California that was formed in 1989. Its main office is in Rosamond, California. Jane
5 Williams serves as its Executive Director. CCAT's purpose is to oppose the release,
6 or potential release, of pollution into the environment, including pollution releases
7 into water. CCAT is dedicated to the preservation, protection, and defense of the
8 environment, particularly with respect to areas and waters near urban industrial
9 communities. To further these goals, CCAT actively seeks federal and state agency
10 implementation of the Act and other laws and, where necessary, directly initiates
11 enforcement actions on behalf of itself and its members.
12 13 14 15

16 7. CCAT is comprised of both individual members and organizational
17 members. Membership in CCAT includes any person who embraces the objectives
18 and purpose of the organization. CCAT currently has approximately twenty
19 individual members whom live, recreate and work in and around Los Angeles County.
20 Several of these members, including individual Robina Suwol, live, recreate and/or
21 work near waters in the vicinity of Defendant's Facility.
22 23

24 8. Members of CCAT influence the organization by participating at regular
25 monthly meetings, voting on proposed activities, and by serving on the organization's
26 Governance Steering Committee. CCAT holds monthly meetings that are open to both
27 28

1 its membership and the public. CCAT also holds periodic, private meetings that are
2 only open to its members. A meeting of CCAT can be called by any member, the
3 Executive Director, or the Governance Steering Committee. Decision-making at any
4 CCAT meeting is generally by consensus but, in the absence of the ability to reach
5 consensus, decisions are made applying Roberts' Rules of Order. All CCAT meetings
6 include discussions that serve to further the environmental protection goals of
7
8 CCAT.

10 9. The Governance Steering Committee consists of members of CCAT. Any
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12 vacancy on the Governance Steering Committee is filled by a vote of the remaining
13 members of the Governance Steering Committee.

14 10. At a private membership meeting in early 2013, CCAT members approved
15
16 a campaign focusing on citizen enforcement lawsuits addressing storm water pollution
17 in the San Fernando Valley and Central Basin areas. Members, including individual
18 members, bestowed authority on Jane Williams in her capacity as CCAT's Executive
19 Director to pursue such actions on their behalf and on behalf of CCAT. Individual
20 members agreed to participate as potential standing witnesses in the suits.
21
22

23 11. Members of CCAT, including Robina Suwol, reside in and around the
24 Los Angeles River and enjoy using the Tujunga Wash and Los Angeles River for
25 recreation and other activities. Members of CCAT, including Robina Suwol, use and
26 enjoy the waters, and areas adjacent to those waters, into which Defendant has caused,
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1 is causing, and will continue to cause, pollutants to be discharged. Members of
2 CCAT, including Robina Suwol, use those areas to walk, jog, drive, recreate, and
3 view wildlife, among other things. Defendants' discharges of pollutants threaten or
4 impair each of those uses or contribute to such threats and impairments. Thus, the
5 interests of CCAT's members, including Robina Suwol, have been, are being, and will
6 continue to be adversely affected by Defendants' failure to comply with the Clean
7 Water Act and the Permit. The relief sought herein will redress the harms to Plaintiff
8 caused by Defendants' activities.
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12 12. Neither the claims asserted nor the relief requested by this action requires
13 the participation of individual members of CCAT. The claims against Defendant are all
14 based wholly on Defendant's own actions at its industrial facility. No CCAT member
15 is privy to any evidence necessary for CCAT to demonstrate Defendant's violations of
16 the Act. The relief requested by this action includes civil penalties payable to the
17 United States Treasury and injunctive relief requiring Defendant to comply with the
18 General Permit. None of the requested relief seeks damages for Plaintiff or any of its
19 members. None of the statutory criteria the Court would apply to assess civil penalties
20 require any information from Plaintiff's members. 33 U.S.C. § 1319(d). The
21 declaratory and injunctive relief requested by CCAT pertain to Defendant only.
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26 13. Continuing commission of the acts and omissions alleged above will
27 irreparably harm Plaintiff and its members, for which harm they have no plain, speedy
28

1 or adequate remedy at law.

2 14. Defendant ARMORCAST PRODUCTS COMPANY, INC. is a
3 corporation that operates an industrial facility in North Hollywood, California.
4

5 15. Defendant ARI ALEONG is the Director of Technology for Armorcast.
6 Plaintiff is informed and believes, and thereupon alleges that Mr. Aleong is a person
7 with authority to exercise control over Armorcast's activity that is causing violations
8 of the CWA and General Permit. Mr. Aleong prepared the Storm Water Pollution
9 Prevention Plan for the Facility and has signed and/or certified Annual Reports for the
10 Facility for the last five years. Mr. Aleong has and continues to collect storm water
11 sampling for the Facility. Mr. Aleong conducts visual observations of the Facility's
12 storm water discharges.
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16 **IV. STATUTORY BACKGROUND**

17 16. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of
18 any pollutant into waters of the United States, unless such discharge is in compliance
19 with various enumerated sections of the Act. Among other things, Section 301(a)
20 prohibits discharges not authorized by, or in violation of, the terms of an NPDES
21 permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.
22
23

24 17. Section 402(p) of the Act establishes a framework for regulating
25 municipal and industrial storm water discharges under the NPDES program. 33
26 U.S.C. § 1342(p). States with approved NPDES permit programs are authorized by
27
28

1 Section 402(p) to regulate industrial storm water discharges through individual
2 permits issued to dischargers or through the issuance of a single, statewide general
3 permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(p).
4

5 18. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator
6 of the U.S. EPA has authorized California's State Board to issue NPDES permits
7 including general NPDES permits in California.
8

9 19. The State Board elected to issue a statewide general permit for industrial
10 storm water discharges. The State Board issued the General Permit on or about
11 November 19, 1991, modified the General Permit on or about September 17, 1992,
12 and reissued the General Permit on or about April 17, 1997, pursuant to Section
13 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).
14
15

16 20. In order to discharge storm water lawfully in California, industrial
17 dischargers must comply with the terms of the General Permit or have obtained and
18 complied with an individual NPDES permit. 33 U.S.C. § 1311(a).
19

20 21. The General Permit contains several prohibitions. Effluent Limitation
21 B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their
22 storm water discharges through implementation of the Best Available Technology
23 Economically Achievable ("BAT") for toxic and nonconventional pollutants and the
24 Best Conventional Pollutant Control Technology ("BCT") for conventional pollutants.
25
26 BAT and BCT include both nonstructural and structural measures. General Permit,
27
28

1 Section A(8). Discharge Prohibition A(2) of the General Permit prohibits storm water
2 discharges and authorized non-storm water discharges that cause or threaten to cause
3 pollution, contamination, or nuisance. Receiving Water Limitation C(1) of the
4 General Permit prohibits storm water discharges to any surface or ground water that
5 adversely impact human health or the environment. Receiving Water Limitation C(2)
6 of the General Permit prohibits storm water discharges that cause or contribute to an
7 exceedance of any applicable water quality standards contained in Statewide Water
8 Quality Control Plan or the applicable Regional Board's Basin Plan.

11
12 22. In addition to absolute prohibitions, the General Permit contains a variety
13 of substantive and procedural requirements that dischargers must meet. Facilities
14 discharging, or having the potential to discharge, storm water associated with
15 industrial activity that have not obtained an individual NPDES permit must apply for
16 coverage under the State's General Permit by filing a Notice of Intent to Comply
17 ("NOI"). The General Permit requires existing dischargers to have filed their NOIs
18 before March 30, 1992.

21
22 23. Dischargers must develop and implement a Storm Water Pollution
23 Prevention Plan ("SWPPP"). The SWPPP must describe storm water control facilities
24 and measures that comply with the BAT and BCT standards. The General Permit
25 requires that an initial SWPPP have been developed and implemented before October
26 1, 1992. The SWPPP must, among other requirements, identify and evaluate sources
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28

1 of pollutants associated with industrial activities that may affect the quality of storm
2 and non-storm water discharges from the facility and identify and implement site-
3 specific best management practices ("BMPs") to reduce or prevent pollutants
4 associated with industrial activities in storm water and authorized non-storm water
5 discharges (Section A(2)). The SWPPP's BMPs must implement BAT and BCT
6 (Section B(3)). The SWPPP must include: a description of individuals and their
7 responsibilities for developing and implementing the SWPPP (Section A(3)); a site
8 map showing the facility boundaries, storm water drainage areas with flow pattern and
9 nearby water bodies, the location of the storm water collection, conveyance and
10 discharge system, structural control measures, impervious areas, areas of actual and
11 potential pollutant contact, and areas of industrial activity (Section A(4)); a list of
12 significant materials handled and stored at the site (Section A(5)); a description of
13 potential pollutant sources including industrial processes, material handling and
14 storage areas, dust and particulate generating activities, and a description of
15 significant spills and leaks, a list of all non-storm water discharges and their sources,
16 and a description of locations where soil erosion may occur (Section A(6)). The
17 SWPPP must include an assessment of potential pollutant sources at the Facility and a
18 description of the BMPs to be implemented at the Facility that will reduce or prevent
19 pollutants in storm water discharges and authorized non-storm water discharges,
20 including structural BMPs where non-structural BMPs are not effective (Section A(7),
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1 (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised
2 where necessary (Sections A(9), (10)).

3 24. Section C(11)(d) of the General Permit's Standard Provisions requires
4 dischargers to report any noncompliance to the Regional Board. *See also* Section
5 E(6). Section A(9) of the General Permit requires an annual evaluation of storm water
6 controls including the preparation of an evaluation report and implementation of any
7 additional measures in the SWPPP to respond to the monitoring results and other
8 inspection activities.
9

10 25. The General Permit requires dischargers commencing industrial activities
11 before October 1, 1992, to develop and implement an adequate written monitoring and
12 reporting program no later than October 1, 1992. Existing facilities covered under the
13 General Permit must implement all necessary revisions to their monitoring programs
14 no later than August 1, 1997.
15

16 26. As part of their monitoring program, dischargers must identify all storm
17 water discharge locations that produce a significant storm water discharge, evaluate
18 the effectiveness of BMPs in reducing pollutant loading, and evaluate whether
19 pollution control measures set out in the SWPPP are adequate and properly
20 implemented. Dischargers must conduct visual observations of these discharge
21 locations for at least one storm per month during the wet season (October through
22 May) and record their findings in their Annual Report. Dischargers must also collect
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1 and analyze storm water samples from at least two storms per year. Section B(5)(a) of
2 the General Permit requires that dischargers “shall collect storm water samples during
3 the first hour of discharge from (1) the first storm event of the wet season, and (2) at
4 least one other storm event in the wet season. All storm water discharge locations
5 shall be sampled.” Section B(5)(c)(i) requires dischargers to sample and analyze
6 during the wet season for basic parameters, such as pH, total suspended solids,
7 electrical conductance, total organic content or oil & grease, and certain industry-
8 specific parameters. Section B(5)(c)(ii) requires dischargers to sample for toxic
9 chemicals and other pollutants likely to be in the storm water discharged from the
10 facility. Section B(5)(c)(iii) requires discharges to sample for parameters dependent
11 on the standard industrial classification (“SIC”) codes for activities at the facility.
12 Section B(7)(a) indicates that the visual observations and samples must represent the
13 “quality and quantity of the facility’s storm water discharges from the storm event.”
14 Section B(7)(c) requires that “if visual observation and sample collection locations are
15 difficult to observe or sample...facility operators shall identify and collect samples
16 from other locations that represent the quality and quantity of the facility’s storm
17 water discharges from the storm event.”
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24 27. Section B(14) of the General Permit requires dischargers to submit an
25 annual report by July 1 of each year to the executive officer of the relevant Regional
26 Board. The annual report must be signed and certified by an appropriate corporate
27
28

1 officer. Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires
2 the discharger to include in their annual report an evaluation of their storm water
3 controls, including certifying compliance with the General Permit. *See also* Sections
4 C(9), C(10) and B(14).
5

6 28. The General Permit does not provide for any mixing zones by
7
8 dischargers. The General Permit does not provide for any dilution credits to be
9 applied by dischargers.

10 29. The Regional Board has established water quality standards for the Los
11
12 Angeles River Watershed in the “Water Quality Control Plan – Los Angeles Region:
13 Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties,”
14 generally referred to as the Basin Plan.
15

16 30. The Basin Plan includes a narrative toxicity standard which states that
17
18 “[a]ll waters shall be maintained free of toxic substances in concentrations that are
19 toxic to, or that produce detrimental physiological responses in, human, plant, animal,
20 or aquatic life.”

21 31. The Basin Plan includes a narrative oil and grease standard which states
22
23 that “[w]aters shall not contain oils, greases, waxes, or other materials in
24 concentrations that result in a visible film or coating on the surface of the water or on
25 objects in the water, that cause nuisance, or that otherwise adversely affect beneficial
26 uses.”
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28

1 32. The Basin Plan provides that “[w]aters shall not contain suspended or
2 settleable material in concentrations that cause nuisance or adversely affect beneficial
3 uses.”
4

5 33. The Basin Plan provides that “[t]he pH of bays or estuaries [or inland
6 surface waters] shall not be depressed below 6.5 or raised above 8.5 as a result of
7 waste discharges.”
8

9 34. The Basin Plan provides that “[s]urface waters shall not contain
10 concentrations of chemical constituents in amounts that adversely affect any
11 designated beneficial use.”
12

13 35. The Basin Plan provides that “[w]aters shall not contain floating
14 materials, including solids, liquids, foams, and scum, in concentrations that cause
15 nuisance or adversely affect beneficial uses.”
16

17 36. The Basin Plan provides that “[w]aters shall be free of coloration that
18 causes nuisance or adversely affects beneficial uses.”
19

20 37. The Basin Plan provides that “[w]aters shall be free of changes in
21 turbidity that cause nuisance or adversely affect beneficial uses.”
22

23 38. The Basin Plan provides that “[w]aters shall not contain taste
24 or odor-producing substances in concentrations that impart undesirable tastes or odors
25 to fish flesh or other edible aquatic resources, cause nuisance, or adversely affect
26 beneficial uses.”
27
28

1 39. EPA has established parameter Benchmark Values as guidelines for
2 determining whether a facility discharging industrial storm water has implemented the
3 requisite BAT and BCT. EPA has established parameter Benchmark Values for the
4 following parameters, among others: pH – 6.0 - 9.0 units; total suspended solids
5 (“TSS”) – 100 mg/L, oil and grease (“O&G”) – 15 mg/L, and iron – 1.0 mg/L.
6

7 40. Section 505(a)(1) and Section 505(f) of the Act provide for citizen
8 enforcement actions against any “person,” including individuals, corporations, or
9 partnerships, for violations of NPDES permit requirements. 33 U.S.C. §§1365(a)(1)
10 and (f), § 1362(5). An action for injunctive relief under the Act is authorized by 33
11 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil
12 penalties of up to \$37,500 per day per violation, pursuant to Sections 309(d) and 505
13 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 - 19.4.
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15

16
17 **V. STATEMENT OF FACTS**
18

19 41. Defendants operate an industrial facility located at 13230 North Saticoy
20 Street in North Hollywood, California. On information and belief, CCAT alleges that
21 the Facility is engaged in the manufacture of above and below grade utility
22 enclosures, barricades, safety barriers, junction and pull boxes, equipment pads, and
23 detectable warning surfaces made of polymer concrete, fiberglass reinforced
24 polyester, and rotocast polyethylene. The Facility falls within SIC Code 3089. The
25 majority of the Facility is paved and used for manufacturing, processing, storing, and
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1 transporting materials related to production processes. On information and belief,
2 Plaintiff alleges that there are at least three large buildings located on the property.
3 Plaintiff is informed and believes, and thereupon alleges that manufacturing, and
4 processing of materials is conducted both inside and outside of these buildings.
5

6 42. Defendants collect and channel storm water that comes in contact with
7 industrial activities at the Facility to at least one storm water outfall. The Facility's
8 outfall discharges to Los Angeles County's municipal storm sewer system, which
9 discharges into the Tujunga Wash, which flows into the Los Angeles River.
10
11

12 43. On information and belief, Plaintiff alleges that the industrial activities at
13 the site include the manufacturing of polymer concrete and fiberglass products for the
14 utility industry including a large range of various sizes of handholes, splice box
15 assemblies, underground vaults, intercept vaults, manholes, water meter boxes, above
16 ground pedestals, equipment and telephone pads, hill holders, security pans, and many
17 other specialty items manufactured of polymer concrete, fiberglass reinforced
18 polyester, and rotocast polyethylene.
19
20

21 44. On information and belief, Plaintiff alleges that all storm water
22 discharges from the Facility contain storm water that is commingled with runoff from
23 areas at the Facility where industrial processes occur.
24
25

26 45. Significant activities at the site take place outside and are exposed to
27 rainfall. These activities include the production and storage of the numerous types of
28

1 materials and finished products handled by the Facility. Loading and delivery of
2 materials occurs outside. Trucks enter and exit the Facility directly from and to a
3 public road. Outdoor areas of the Facility are exposed to storm water and storm flows
4 due to the lack of overhead coverage, berms, and other storm water controls.
5

6 46. Industrial machinery, heavy equipment and vehicles, including trucks
7 and forklifts, are operated at the Facility in areas exposed to storm water flows.
8 Plaintiff is informed and believes, and thereupon alleges, that such machinery and
9 equipment leak contaminants such as oil, grease, diesel fuel, coolant, and hydraulic
10 fluids that are exposed to storm water flows, and that such machinery and equipment
11 track sediment and other contaminants throughout the Facility. On information and
12 belief, Plaintiff alleges that trucks leaving the Facility track substantial amounts of
13 material onto adjoining public roads. On information and belief, Plaintiff alleges that
14 during rain events, material that has been tracked from the Facility onto public roads
15 during dry weather is transported via storm water to storm drain channels.
16
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20 47. Plaintiff is informed and believes, and thereupon alleges that the storm
21 water flows easily over the surface of the Facility, collecting suspended sediment, dirt,
22 oils, grease, and other pollutants as it flows toward the storm water drains. Storm
23 water and any pollutants contained in that storm water entering the drains flows
24 directly to the Facility's outfall which discharges to Los Angeles County's municipal
25 storm sewer system, which discharges into the Tujunga Wash, which flows into the
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1 Los Angeles River.

2 48. The management practices at the Facility are wholly inadequate to
3 prevent the sources of contamination described above from causing the discharge of
4 pollutants to waters of the United States. The Facility lacks sufficient structural
5 controls such as grading, berming, roofing, containment, or drainage structures to
6 prevent rainfall and storm water flows from coming into contact with these and other
7 exposed sources of contaminants. The Facility lacks sufficient structural controls to
8 prevent the discharge of water once contaminated. The Facility lacks adequate storm
9 water pollution treatment technologies to treat storm water once contaminated. The
10 Facility lacks controls to prevent the tracking and flow of pollutants onto adjacent
11 public roads.
12

13 49. Since at least October 14, 2009, Defendants have taken samples or
14 arranged for samples to be taken of storm water discharges at the Facility. The
15 sample results were reported in the Facility's annual reports submitted to the Regional
16 Board. Defendants certified each of those annual reports pursuant to Sections A and
17 C of the General Permit.
18

19 50. Since at least October 14, 2009, the Facility has detected TSS and O&G
20 in storm water discharged from the Facility. Since at least April 11, 2012, the Facility
21 has detected iron in storm water discharged from the Facility. Levels of these
22 pollutants detected in the Facility's storm water have been in excess of EPA's
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1 numeric parameter benchmark values.

2 51. On the following dates, the Facility's observations of its storm water
3 discharges demonstrated violations of narrative water quality standards in the Basin
4 Plan for discoloration, floating materials, odor, and turbidity: October 13, 2009;
5 November 30, 2009; December 11, 2009; October 6, 2010; January 3, 2011; February
6 18, 2011; February 15, 2012; April 11, 2012; November 29, 2012; and January 24,
7 2013.
8

9 52. The level of TSS in storm water detected by the Facility has exceeded the
10 benchmark value for TSS of 100 mg/L established by EPA. For example, on
11 February 19, 2013, the level of TSS measured by Defendants at its outfall was 414
12 mg/L. That level of TSS is over 4 times the benchmark value for TSS. Armorcast
13 also has measured levels of TSS in storm water discharged from the Facility in excess
14 of 100 mg/L on October 13, 2013; November 29, 2012; February 25, 2012; and
15 December 11, 2009.
16

17 53. The level of O&G in storm water detected by the Facility has exceeded
18 the benchmark value for O&G of 15 mg/L established by EPA. For example,
19 February 25, 2012, the level of O&G measured by Defendants at its outfall was 160
20 mg/L. That level of TSS is almost 11 times the benchmark value for O&G.
21 Armorcast also has measured levels of O&G in storm water discharged from the
22 Facility in excess of 15 mg/L on November 29, 2012.
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1 54. The level of iron in storm water detected by the Facility has exceeded the
2 benchmark value for iron of 1 mg/L established by EPA. On November 29, 2012, the
3 level of iron measured by Defendants at the Facility's outfall was 3.69 mg/L. That
4 level of iron is almost 4 times the benchmark value for iron. Defendants also
5 measured a level of iron of 1.79 mg/L at the Facility's outfall on October 13, 2013.
6

7 55. Iron is likely to be present in significant quantities in storm water
8 discharges from the Facility. On information and belief, Plaintiff alleges that
9 Defendants failed to sample and analyze its storm water discharges for iron during the
10 2009-2010 and 2010-2011 wet seasons, as well as during the first storm water sample
11 of the 2011-2012 wet season.
12

13 56. On information and belief, Plaintiff alleges that since at least July 23,
14 2009, Defendants have failed to implement BAT and BCT at the Facility for its
15 discharges of pH, TSS, O&G, iron, and other un-monitored pollutants. Section B(3)
16 of the General Permit requires that Defendants implement BAT for toxic and
17 nonconventional pollutants and BCT for conventional pollutants by no later than
18 October 1, 1992. As of the date of this Complaint, Defendants have failed to
19 implement BAT and BCT.
20

21 57. On information and belief, Plaintiff alleges that since at least July 23,
22 2009, Defendants have failed to implement an adequate Storm Water Pollution
23 Prevention Plan for the Facility. Plaintiff is informed and believes, and thereupon
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1 alleges, that the SWPPP prepared for the Facility does not set forth site-specific best
2 management practices for the Facility that are consistent with BAT or BCT for the
3 Facility. Plaintiff is informed and believes, and thereupon alleges, that the SWPPP
4 prepared for the Facility does not include an adequate assessment of potential
5 pollutant sources, structural pollutant control measures employed by Defendants, a list
6 of actual and potential areas of pollutant contact, or an adequate description of best
7 management practices to be implemented at the Facility to reduce pollutant
8 discharges. According to information available to CCAT, Defendants' SWPPP has
9 not been evaluated to ensure its effectiveness and revised where necessary to further
10 reduce pollutant discharges. Plaintiff is informed and believes, and thereupon alleges,
11 that the SWPPP does not include each of the mandatory elements required by Section
12 A of the General Permit.
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17 58. Information available to CCAT indicates that as a result of these
18 practices, storm water containing excessive pollutants is being discharged during rain
19 events from the Facility directly to Los Angeles County's municipal storm sewer
20 system, which discharges into the Tujunga Wash, which flows into the Los Angeles
21 River.
22
23

24 59. Plaintiff is informed and believes, and thereupon alleges, that, Defendants
25 have failed and continues to fail to alter the Facility's SWPPP and site-specific BMPs
26 consistent with Section A(9) of the General Permit.
27
28

60. Plaintiff is informed and believes that Defendants failed to submit to the Regional Board a true and complete annual report certifying compliance with the General Permit since at least July 12, 2010. Pursuant to Sections A(9)(d), B(14), and C(9), (10) of the General Permit, Defendants must submit an annual report, that is signed and certified by the appropriate corporate officer, outlining the Facility's storm water controls and certifying compliance with the General Permit. Plaintiff is informed and believes, and thereupon alleges, that Defendants have signed incomplete annual reports that purported to comply with the General Permit when there was significant noncompliance at the Facility.

61. Information available to Plaintiff indicates that Defendants have not fulfilled the requirements set forth in the General Permit for discharges from the Facility due to the continued discharge of contaminated storm water. Plaintiff is informed and believes, and thereupon alleges, that all of the violations alleged in this Complaint are ongoing and continuing.

VI. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

Failure to Implement the Best Available and Best Conventional Treatment Technologies (Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)

62. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if fully set forth herein.

63. The General Permit's SWPPP requirements and Effluent Limitation B(3)

1 require dischargers to reduce or prevent pollutants in their storm water discharges
 2 through implementation of BAT for toxic and nonconventional pollutants and BCT
 3 for conventional pollutants. Defendants have failed to implement BAT and BCT at
 4 the Facility for its discharges of pH, TSS, O&G, iron, and other un-monitored
 5 pollutants in violation of Effluent Limitation B(3) of the General Permit.
 6

7
 8 64. Each day since July 23, 2009, that Defendants have failed to develop and
 9 implement BAT and BCT in violation of the General Permit is a separate and distinct
 10 violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).
 11

12 65. Defendants have been in violation of the BAT/BCT requirements every
 13 day since July 23, 2009. Defendants continues to be in violation of the BAT/BCT
 14 requirements each day that it fails to develop and fully implement BAT/BCT at the
 15 Facility.
 16

17
 18 **SECOND CAUSE OF ACTION**
 19 **Discharges of Contaminated Storm Water**
in Violation of Permit Conditions and the Act
(Violations of 33 U.S.C. §§ 1311, 1342)

20 66. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
 21 fully set forth herein.
 22

23 67. Discharge Prohibition A(2) of the General Permit requires that storm water
 24 discharges and authorized non-storm water discharges shall not cause or threaten to
 25 cause pollution, contamination, or nuisance. Receiving Water Limitations C(1) and
 26 C(2) of the General Permit require that storm water discharges and authorized non-
 27
 28

1 storm water discharges shall not adversely impact human health or the environment,
2 and shall not cause or contribute to a violation of any water quality standards contained
3 in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin
4 Plan.
5

6 68. Plaintiff is informed and believes, and thereupon alleges, that since at least
7 October 13, 2009, Defendants have been discharging polluted storm water from the
8 Facility in excess of applicable water quality standards in violation of the Discharge
9 Prohibition A(2) of the General Permit.
10

11 69. During every rain event, storm water flows freely over exposed materials,
12 waste products, and other accumulated pollutants at the Facility, becoming
13 contaminated with sediment, floating materials, iron, O&G and other un-monitored
14 pollutants at levels above applicable water quality standards. The storm water then
15 flows untreated from the Facility into Los Angeles County's municipal storm sewer
16 system, which discharges into the Tujunga Wash, which flows into the Los Angeles
17 River.
18

19 70. Plaintiff is informed and believes, and thereupon alleges, that these
20 discharges of contaminated storm water are causing or contributing to the violation of
21 the applicable water quality standards in a Statewide Water Quality Control Plan and/or
22 the applicable Regional Board's Basin Plan in violation of Receiving Water Limitation
23 C(2) of the General Permit.
24
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71. Plaintiff is informed and believes, and thereupon alleges, that these discharges of contaminated storm water are adversely affecting human health and the environment in violation of Receiving Water Limitation C(1) of the General Permit.

72. Every day since at least October 13, 2009, that Defendants have discharged and continues to discharge polluted storm water from the Facility in violation of the General Permit is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). These violations are ongoing and continuous.

THIRD CAUSE OF ACTION
Failure to Prepare, Implement, Review, and Update
an Adequate Storm Water Pollution Prevention Plan
(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)

73. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if fully set forth herein.

74. Section A and Provision E of the General Permit requires dischargers of storm water associated with industrial activity to develop and implement an adequate SWPPP no later than October 1, 1992.

75. Defendants have failed to develop and implement an adequate SWPPP for the Facility. Defendants' ongoing failure to develop and implement an adequate SWPPP for the Facility is evidenced by, *inter alia*, Defendants' outdoor production of various materials without appropriate best management practices; the continued exposure of significant quantities of various materials to storm water flows; the continued exposure and tracking of waste resulting from the operation of vehicles at the

1 site; the failure to either treat storm water prior to discharge or to implement effective
2 containment practices; and the continued discharge of storm water pollutants from the
3 Facility at levels in excess of EPA benchmark values and water quality standards.
4

5 76. Defendants have failed to update the Facility's SWPPP in response to the
6 analytical results of the Facility's storm water monitoring.
7

8 77. Each day since July 23, 2009, that Defendants have failed to develop,
9 implement and update an adequate SWPPP for the Facility is a separate and distinct
10 violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).
11

12 78. Defendants have been in violation of the SWPPP requirements every day
13 since July 23, 2009. Defendants continue to be in violation of the SWPPP
14 requirements each day that it fails to develop and fully implement an adequate SWPPP
15 for the Facility.
16

17 **FOURTH CAUSE OF ACTION**
18 **Failure to Develop and Implement an**
19 **Adequate Monitoring and Reporting Program**
20 **(Violation of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

21 79. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
22 fully set forth herein.

23 80. Section B of the General Permit requires dischargers of storm water
24 associated with industrial activity to have developed and be implementing a
25 monitoring and reporting program (including, *inter alia*, sampling and analysis of
26 discharges) no later than October 1, 1992.
27
28

1 81. Defendants have failed to develop and implement an adequate
2 monitoring and reporting program for the Facility. Defendants' ongoing failure to
3 develop and implement an adequate monitoring and reporting program are evidenced
4 by, *inter alia*, its failure to analyze its storm water discharges for iron during the
5 2009-2010 and 2010-2011 wet seasons, as well as during the first storm water sample
6 of the 2011-2012 wet season.
7

8
9 82. Each day since July 23, 2009, that Defendants have failed to develop and
10 implement an adequate monitoring and reporting program for the Facility in violation
11 of the General Permit is a separate and distinct violation of the General Permit and
12 Section 301(a) of the Act, 33 U.S.C. § 1311(a). The absence of requisite monitoring
13 and analytical results are ongoing and continuous violations of the Act.
14
15

16 **FIFTH CAUSE OF ACTION**
17 **False Certification of Compliance in Annual Report**
18 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

19 83. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
20 fully set forth herein.

21 84. Defendants have falsely certified compliance with the General Permit in
22 each of the annual reports submitted to the Regional Board since at least July 12,
23 2010.
24

25 85. Each day since at least July 12, 2010, that Defendants have falsely
26 certified compliance with the General Permit is a separate and distinct violation of the
27 General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). Defendants
28

1 continues to be in violation of the General Permit's certification requirement each day
2 that it maintains its false certification of its compliance with the General Permit.

3 **VII. RELIEF REQUESTED**
4

5 Wherefore, Plaintiff respectfully requests that this Court grant the following
6 relief:

7
8 a. Declare Defendants to have violated and to be in violation of the Act as
9 alleged herein;

10 b. Enjoin Defendants from further violating the substantive and
11 procedural requirements of the Permit;

12
13 c. Order Defendants to immediately comply with the substantive and
14 procedural requirements of General Permit, including but not limited to the following:

15
16 i. To implement storm water pollution control and treatment
17 technologies and measures that are equivalent to BAT or BCT and prevent pollutants in
18 the Facility's storm water from contributing to violations of any water quality
19 standards;
20

21 ii. To comply with the Permit's monitoring and reporting
22 requirements, including ordering supplemental monitoring to compensate for past
23 monitoring violations;
24

25 iii. To prepare a SWPPP consistent with the Permit's requirements
26 and implement procedures to regularly review and update the SWPPP;
27
28

1 d. Order Defendants to provide Plaintiff with reports documenting the
2 quality and quantity of their discharges to waters of the United States and their efforts
3 to comply with the Act and the Court's orders;

4
5 e. Order Defendants to pay civil penalties of \$37,500 per day per
6 violation for each violation of the Act pursuant to Sections 309(d) and 505(a) of the
7 Act, 33 U.S.C. §§ 1319(d), 1365(a) and 40 C.F.R. §§ 19.1 - 19.4;

8
9 f. Order Defendants to take appropriate actions to restore the quality of
10 waters impaired or adversely affected by their activities;

11
12 g. Award Plaintiff's costs (including reasonable investigative, attorney,
13 witness, compliance oversight, and consultant fees) as authorized by the Act, 33 U.S.C.
14 § 1365(d); and,

15
16 h. Award any such other and further relief as this Court may deem
17 appropriate.

18
19
20 Dated: December 22, 2014

Respectfully submitted,
LOZEAU DRURY LLP

21
22
23 By: /s/ Douglas J. Chermak
24 Douglas J. Chermak
25 Attorneys for Plaintiff
26 CALIFORNIA COMMUNITIES AGAINST
27 TOXICS
28

EXHIBIT A



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
doug@lozeaudrury.com

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

May 21, 2014

Paul Boghossian, President
Ari Aleong, Director, Product Quality
Armorcast Products Company, Inc.
13230 Saticoy Street
North Hollywood, CA 91605

**Re: Notice of Violations and Intent to File Suit Under the Federal Water
Pollution Control Act**

Dear Mr. Boghossian and Mr. Aleong:

I am writing on behalf of California Communities Against Toxics ("CCAT") in regard to violations of the Federal Water Pollution Control Act (the "Clean Water Act" or "Act") that CCAT believes are occurring at Armorcast Products Company, Inc.'s industrial facility located at 13230 Saticoy Street in North Hollywood, California ("Facility"). CCAT is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCAT has members living in the community adjacent to the Facility and the Los Angeles River Watershed. CCAT and its members are deeply concerned with protecting the environment in and around their communities, including the Los Angeles River Watershed. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "Armorcast").

This letter addresses Armorcast's unlawful discharge of pollutants from the Facility through the Los Angeles County municipal storm sewer system through Tujunga Wash into the Los Angeles River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, State Water Resources Control Board ("State Board") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "General Permit").¹ The WDID identification number for the Facility listed on

¹ On April 1, 2014, the State Board reissued the General Permit, continuing its mandate that industrial facilities implement the best available technology economically achievable ("BAT")

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documents submitted to the Regional Water Quality Control Board, Los Angeles Region (“Regional Board”) is 4 19I021682. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency (“EPA”) and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Armorcast is hereby placed on formal notice by CCAT that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CCAT intends to file suit in federal court against Armorcast under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

I. Background.

On approximately July 8, 2008, Armorcast filed a Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (“NOI”). In its NOI and Annual Reports, Armorcast has certified that the Facility is classified under SIC Code 3089 (“Plastics Products Not Elsewhere Specified”). The Facility collects and discharges storm water from its 5.02-acre industrial site into at least one storm drain outfall located at the Facility. On information and belief, CCAT alleges that industrial activities at the site include the manufacture of composite and polymer concrete utility boxes and covers, using various manufacturing processes such as fiber-reinforced spray-up, compression, and cast molding. Raw materials including fiberglass, polyester resin, silica sand, and limestone are used in these manufacturing processes, and molds and rusty racks are stored outdoors. On information and belief, CCAT alleges that storm water discharges from the Facility contain storm water that is commingled with runoff from the Facility from areas where industrial processes occur and/or where materials are stored. The outfalls discharge into Los Angeles County’s municipal storm sewer system, which discharges into the Tujunga Wash, which flows into the Los Angeles River.

The Regional Board has identified beneficial uses of the Los Angeles River, including its tributary, Tujunga Wash, and established water quality standards for it in the “Water Quality Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and

and best conventional pollutant control technology (“BCT”) and, in addition, establishing numeric action levels mandating additional pollution control efforts. State Board Order 2014-0057-DWQ. The new permit, however, does not go into effect until July 1, 2015. Until that time, the current General Permit remains in full force and effect.

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Ventura Counties”, generally referred to as the Basin Plan. *See* http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/basin_plan_documentation.shtml. The beneficial uses of these waters include, among others, municipal and domestic supply, groundwater recharge, water contact recreation, non-contact water recreation, warm freshwater habitat, wildlife habitat, and wetland habitat. The non-contact water recreation use is defined as “[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.” *Id.* at 2-2. Contact recreation use includes fishing and wading. *Id.* Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people’s use of the Los Angeles River for contact and non-contact water recreation and commercial and sport fishing.

The Basin Plan includes a narrative toxicity standard which states that “[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life.” *Id.* at 3-16. The Basin Plan includes a narrative oil and grease standard which states that “[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.” *Id.* at 3-11. The Basin Plan provides that “[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* at 3-16. The Basin Plan provides that “[t]he pH of bays or estuaries [or inland surface waters] shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges.” *Id.* at 3-15. The Basin Plan provides that “[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use.” *Id.* at 3-8. The Basin Plan provides that “[w]aters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* at 3-9. The Basin Plan provides that “[w]aters shall be free of coloration that causes nuisance or adversely affects beneficial uses.” *Id.* The Basin Plan provides that “[w]aters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses.” *Id.* at 3-17. The Basin Plan provides that “[w]aters shall not contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible aquatic resources, cause nuisance, or adversely affect beneficial uses.” *Id.* at 3-16.

The Effluent Limitations of the General Permit prohibit the discharge of pollutants from the Facility in concentrations above the level commensurate with the application of best available technology economically achievable (“BAT”) for toxic pollutants and best conventional pollutant control technology (“BCT”) for conventional pollutants. *See* General Permit, Order Part B(3). The EPA has published Benchmark values set at the maximum

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pollutant concentration present if an industrial facility is employing BAT and BCT.² The following benchmarks have been established for pollutants discharged by Armorcast: pH – 6.0 - 9.0 standard units (“s.u.”); total suspended solids (“TSS”) – 100 mg/L; oil and grease (“O&G”) – 15 mg/L; and iron – 1.0 mg/L.

II. Alleged Violations of the Clean Water Act and the General Permit.

A. Discharges in Violation of the Permit not Subjected to BAT/BCT

Armorcast has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board’s Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility’s discharge monitoring locations.

Armorcast has discharged and continues to discharge storm water with unacceptable levels of TSS, O&G, and iron in violation of the General Permit. Armorcast’s sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and

² The Benchmark Values can be found at:

http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf and

<http://cwea.org/p3s/documents/multi-sectorrev.pdf> (Last accessed on April 17, 2014).

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materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed “conclusive evidence of an exceedance of a permit limitation.” *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following observations of pollutants from the Facility have violated narrative water quality standards established in the Basin Plan and have thus violated Discharge Prohibition A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

Date	Parameter	Observed Conditions	Basin Plan Water Quality Standard	Outfall (as identified by the Facility)
1/24/2013	Narrative	Discoloration / Turbidity	Basin Plan at 3-9 / Basin Plan at 3-17	Storm Drain #1
11/29/2012	Narrative	Discoloration / Odors / Turbidity	Basin Plan at 3-9 / Basin Plan at 3-16 Basin Plan at 3-17	Storm Drain #1
4/11/2012	Narrative	Discoloration / Turbidity	Basin Plan at 3-9 / Basin Plan at 3-17	Storm Drain #1
2/15/2012	Narrative	Discoloration / Turbidity	Basin Plan at 3-9 / Basin Plan at 3-17	Storm Drain #1
2/18/2011	Narrative	Discoloration / Turbidity	Basin Plan at 3-9 / Basin Plan at 3-17	Storm Drain #1
1/3/2011	Narrative	Discoloration / Floating & Suspended Materials / Turbidity	Basin Plan at 3-9 / Basin Plan at 3-16 Basin Plan at 3-17	Storm Drain #1
10/6/2010	Narrative	Discoloration / Floating & Suspended Materials / Odors / Turbidity	Basin Plan at 3-9 / Basin Plan at 3-16 Basin Plan at 3-17	Storm Drain #1
12/11/2009	Narrative	Discoloration	Basin Plan at 3-9	Storm Drain #1
11/30/2009	Narrative	Discoloration	Basin Plan at 3	Storm Drain #1
10/13/2009	Narrative	Discoloration	Basin Plan at 3	Storm Drain #1

The information in the above table reflects data gathered from Armorcast’s self-monitoring during the 2009-2010, 2010-2011, 2011-2012, and 2012-2013 wet seasons. CCAT alleges that during each of those wet seasons and continuing through today, Armorcast has discharged storm water contaminated with pollutants that violate one or more applicable narrative water quality standards, including but not limited to each of the following:

- Suspended materials – waters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses

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- Discoloration – waters shall be free of coloration that causes nuisance or adversely affects beneficial uses
- Floating materials – waters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses
- Odor - waters shall not contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible aquatic resources, cause nuisance, or adversely affect beneficial uses
- Turbidity - waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

Date	Parameter	Observed Concentration	EPA Benchmark Value	Location (as identified by the Facility)
2/19/2013	Total Suspended Solids	414 mg/L	100 mg/L	Storm Drain #1 (South)
11/29/2012	Total Suspended Solids	152 mg/L	100 mg/L	Storm Drain #1 (South)
11/29/2012	Oil & Grease	87.5 mg/L	15 mg/L	Storm Drain #1 (South)
11/29/2012	Iron	3.69 mg/L	1.0 mg/L	Storm Drain #1 (South)
2/15/2012	Total Suspended Solids	972 mg/L	100 mg/L	Storm Drain #1 (South)
2/15/2012	Oil & Grease	160 mg/L	15 mg/L	Storm Drain #1 (South)
12/11/2009	Total Suspended Solids	357 mg/L	100 mg/L	Storm Drain #1 (South)

The information in the above table reflects data gathered from Armorcast's self-monitoring during the 2009-2010, 2010-2011, 2011-2012, and 2012-2013 wet seasons. CCAT alleges that during each of those rainy seasons and continuing through today, Armorcast has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA Benchmarks, including but not limited to each of the following:

- Total Suspended Solids – 100 mg/L
- Oil & Grease – 15.0 mg/L
- Iron – 1.0 mg/L

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CCAT's investigation, including its review of Armorcast's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and EPA's benchmark values, indicates that Armorcast has not implemented BAT and BCT at the Facility for its discharges of TSS, O&G, and iron in violation of Effluent Limitation B(3) of the General Permit. Armorcast was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Armorcast is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed in the tables above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CCAT alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since May 21, 2009, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CCAT alleges that Armorcast has discharged storm water containing impermissible levels of TSS, O&G, and iron in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.³

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Armorcast is subject to penalties for violations of the General Permit and the Act since May 21, 2009.

B. Failure to Develop and Implement an Adequate Monitoring and Reporting Program

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event."

³ The rain dates are all the days when rain fell by comparing data from a weather station in Santa Monica, California, approximately 15 miles away from the Facility, and a weather station in Glendale, approximately 15 miles away from the Facility.

<http://www.ipm.ucdavis.edu/WEATHER/SITES/losangeles.html> (Last accessed on May 17, 2014). The rain dates on the attached table are when a daily average of 0.1" or more rain was observed.

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The above-referenced data was obtained from the Facility's monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. In addition, on May 31, 2012, the Facility reported to the Regional Board that it took storm water samples upgradient of the rusty metal outdoor storage area. To the extent the storm water data collected by Armorcast is not representative of the quality of the Facility's various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, CCAT alleges that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

The Facility is required to analyze storm water samples for "pollutants that are likely to be present in storm water discharges in significant quantities" pursuant to Section B(5)(c)(ii) of the General Permit. CCAT also alleges that the Facility failed to sample and analyze storm water discharges for iron during the 2009-2010 and 2010-2011 wet seasons, as well as during the first storm water sample of the 2011-2012 wet season. As evidenced by Armorcast's recent sampling results, iron is likely to be present in the Facility's storm water discharges in significant quantities. This failure results in at least three violations of the General Permit.

The above violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Armorcast is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since May 21, 2009.

C. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan

Section A and Provision E(2) of the General Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan ("SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices ("BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit,

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Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)).

CCAT's review of the Facility's SWPPP and its investigation of the conditions at the Facility as well as Armorcast's Annual Reports indicate that Armorcast has been operating with an inadequately developed and implemented SWPPP in violation of the requirements set forth above. Armorcast has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Armorcast has been in continuous violation of Section A and Provision E(2) of the General Permit every day since May 21, 2009, at the very latest, and will continue to be in violation every day that Armorcast fails to prepare, implement, review, and update an effective SWPPP. Armorcast is subject to penalties for violations of the Order and the Act occurring since May 21, 2009.

D. Failure to File True and Correct Annual Reports

Section B(14) of the General Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

For the last five years, Armorcast and its agent, Ari Aleong, inaccurately certified in its Annual Reports that the Facility was in compliance with the General Permit. Consequently, Armorcast has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Permit every time Armorcast failed to submit a complete or correct report and every time Armorcast or its agents falsely purported to comply with the Act. Armorcast is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since at least July 7, 2010.

III. Persons Responsible for the Violations.

CCAT puts Armorcast on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for

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the violations set forth above, CCAT puts Armorcast on notice that it intends to include those persons in this action.

IV. Name and Address of Noticing Parties.

The name, address and telephone number of CCAT is as follows:

Jane Williams
Executive Director
California Communities Against Toxics
P.O. Box 845
Rosamond, CA 93560
Tel. (661) 510-3412

V. Counsel.

CCAT has retained counsel to represent it in this matter. Please direct all communications to:

Michael R. Lozeau
Douglas J. Chermak
Lozeau Drury LLP
410 12th Street, Suite 250
Oakland, California 94607
Tel. (510) 836-4200
michael@lozeaudrury.com
doug@lozeaudrury.com

Gideon Kracov
Law Office of Gideon Kracov
801 S. Grand Avenue, 11th Floor
Los Angeles, CA 90017
gk@gideonlaw.net

VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Armorcast to a penalty of up to \$37,500 per day per violation. In addition to civil penalties, CCAT will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CCAT believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CCAT intends to file a citizen suit under Section 505(a) of the Act against Armorcast and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CCAT would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CCAT suggests that you initiate those discussions within

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the next 20 days so that they may be completed before the end of the 60-day notice period. CCAT does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,


Douglas J. Chermak
Lozeau Drury LLP
Attorneys for California Communities Against Toxics

cc via first class mail: Mr. Paul Boghossian
Agent for Service of Process for Armorcast Products Company, Inc.
(Entity No. C0960520)
4694 Brewster Drive
Tarzana, CA 91356

Notice of Violations and Intent to File Suit

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SERVICE LIST

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Eric Holder, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Jared Blumenfeld, Regional Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Samuel Unger, Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

ATTCHMENT A

Rain Dates, Armorcast Products Company, Inc., North Hollywood, Los Angeles County, California

10/13/2009	10/30/2010	5/18/2011
10/14/2009	11/8/2010	10/5/2011
12/7/2009	11/20/2010	11/4/2011
12/10/2009	11/21/2010	11/6/2011
12/11/2009	11/22/2010	11/12/2011
12/12/2009	11/23/2010	11/20/2011
12/13/2009	11/24/2010	12/12/2011
12/30/2009	11/25/2010	12/13/2011
1/13/2010	11/26/2010	1/21/2012
1/17/2010	11/27/2010	1/23/2012
1/18/2010	12/5/2010	2/27/2012
1/19/2010	12/17/2010	3/17/2012
1/20/2010	12/18/2010	3/18/2012
1/21/2010	12/19/2010	3/25/2012
1/22/2010	12/20/2010	3/31/2012
1/26/2010	12/21/2010	4/10/2012
2/5/2010	12/22/2010	4/11/2012
2/6/2010	12/25/2010	4/13/2012
2/9/2010	12/26/2010	4/25/2012
2/19/2010	12/29/2010	10/11/2012
2/27/2010	1/2/2011	11/17/2012
3/3/2010	1/3/2011	11/29/2012
3/4/2010	1/30/2011	11/30/2012
3/6/2010	2/16/2011	12/1/2012
4/4/2010	2/18/2011	12/2/2012
4/5/2010	2/19/2011	12/3/2012
4/11/2010	2/25/2011	12/12/2012
4/12/2010	2/26/2011	12/13/2012
4/20/2010	3/2/2011	12/14/2012
4/28/2010	3/3/2011	12/16/2012
10/6/2010	3/19/2011	12/18/2012
10/17/2010	3/20/2011	12/24/2012
10/18/2010	3/21/2011	12/26/2012
10/19/2010	3/23/2011	12/29/2012
10/20/2010	3/24/2011	1/24/2013
10/21/2010	3/25/2011	1/25/2013
10/22/2010	3/27/2011	2/19/2013
10/24/2010	5/15/2011	3/7/2013
10/25/2010	5/17/2011	3/8/2013

Notice of Violations and Intent to File Suit

ATTCHMENT A

Rain Dates, Armorcast Products Company, Inc., North Hollywood, Los Angeles County,
California

3/9/2013	10/9/2013	3/1/2014
4/14/2013	11/29/2013	3/5/2014
4/15/2013	12/19/2013	4/1/2014
5/6/2013	12/20/2013	4/2/2014
7/11/2013	2/6/2014	
8/6/2013	2/28/2014	

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